

Serial No. 10/764,749

### REMARKS

Claims 33-38 have been canceled without prejudice thereby rendering moot the rejection of these claims. Claims 39-44 have not been amended, and are currently pending. Reconsideration and allowance of the pending claims is respectfully requested.

Claims 33-44 stand rejected as being anticipated by USP 5,613,890 to DeMars ("DeMars '890"). This rejection is respectfully traversed.

Independent claim 39 recites, among other limitations, a cover element which is adjusted to partially cover the air channel in a manner such that the air channel is always at least partially exposed to ambient. See FIGS. 8-9 and page 10 of the specification, where the air channel 191 is always at least partially exposed to ambient because the cover element (slide 214) cannot completely cover the air channel 191.

In contrast, DeMars '890 does not teach or suggest a cover element which is adjusted to partially cover the air channel in a manner such that the air channel is always at least partially exposed to ambient. For example, the plate 72 has a hole 74 that can be aligned with the inlet air opening 68 (i.e., which leads to an air channel) to control the air flow. However, as best viewed from FIG. 4, the plate 72 completely covers the opening 68 so that the air channel is not always at least partially exposed to ambient. In addition, column 2, lines 50-55 expressly state that FIG. 4 shows "... the mechanism utilized within the bubble producing toy ... to control the volume of external air into the toy ... with this control being in the **closed position not permitting flow of air through the toy**" [emphasis added].

The Examiner's comments on page 3 of the Final Office Action have been respectfully noted, but Applicant respectfully submits that the language in column 4, line 37 through column 5, line 3 does not expressly describe whether the opening 68 is completely covered. Instead, as set forth above, FIG. 4 and column 2, lines 50-55 expressly illustrate and describe the complete closure of the opening 68.

Thus, claim 39, and claims 40-44 depending therefrom, are submitted to be in condition for allowance.

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The Examiner is invited to telephone the undersigned if there are any matters that can be resolved in a phone conversation, or if the Examiner has any other suggestions, ideas, or proposed amendments that would place this application in condition for allowance.

Respectfully Submitted,



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**CERTIFICATE OF MAILING**

I hereby certify that this paper and its enclosures are being transmitted via facsimile (703-872-9308) to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Date: May 19, 2005

By:



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